

Jefferson County, Wisconsin
Zoning Ordinance excerpts
Contact: Planning Department
(414)674-2500
Adopted: 1975
Revised: 1978
Court Challenged; yes

Notes: Addresses agricultural uses such as feed lots.

EXCERPTED JEFFERSON COUNTY, WISCONSIN, ZONING ORDINANCE

(g) Repeal. All other ordinances or parts of ordinances of the County inconsistent or conflicting with this Ordinance, to the extent of the inconsistency only, are hereby repealed.

(h) Title. This Ordinance shall be known as, referred to or cited as the "1975 ZONING ORDINANCE, COUNTY OF JEFFERSON, WISCONSIN." (Amended August 1978)

11.02 DEFINITIONS

For the purposes of this Ordinance, the following definitions shall be used. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the single number. The word "shall" is mandatory and not directory.

Accessory Use or Structure: A use or detached structure subordinate to the principal use of a structure, land, or water and located on the same lot or parcel, serving a purpose customarily incidental to the principal use or the principal structure.

Alley: A right of way affording only secondary access to abutting properties.

Animal Unit: The equivalent of 1 cow, 4 hogs, 10 sheep, 10 goats, 100 poultry, 1 horse, pony or mule. (12-21-82, Ord. No. 11)

Basement: That portion of any structure located partly below the average adjoining lot grade.

Boathouse: An accessory building designed for the protection or storage of boats, which shall not be used for either temporary or permanent dwelling purposes, and shall not exceed 8 feet in height, but this shall not prohibit the erection of a temporary flexible covering or sunshade over flat roofs or decks not to exceed 15 feet in height.

Building: Any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, equipment, machinery, or materials.

Building Area: The total living area bounded by the exterior walls of a building at the floor

levels, but not including basement, garages, open porches, and unfinished attics.

Building Height: The vertical distance measured from the mean elevation of the finished lot grade along the street yard face of the structure to the highest point of the structure, excluding chimneys, vents or antennae.

Campground: A privately or municipally owned parcel or tract of land, maintained, intended, or used for the purpose of supplying temporary or overnight living accommodations to the public by providing designated areas for the placement of trailers, tents, buses, automobiles, or sleeping bags, and may include structures to provide services to the patrons, such as restrooms, bathing and laundry facilities.

2

of land in any Agricultural District to keep five (5) or more dogs, or use of land in any Residential, Community or Waterfront (W) District to keep three (3) or more dogs as household pets (not counting pups below the age of five (5) months) constitutes a kennel and is prohibited, unless permitted as a conditional use. (12-21-82, Ord. No. 11)

Laboratory: A place where scientific experiments and research are carried on or where drugs, chemicals or such substances are made or tested or an establishment devoted to the development of and fabricating of preliminary or pilot models, but specifically not to include any mass production of the result of the experimental work.

Livestock Unit: One thousand (1,000) pounds of live animal weight. Animals include but are not limited to, cattle, horses, pigs, sheep and buffalo.

Loading Area: A completely off-street space or berth on the same lot for the loading or unloading of freight carriers, having adequate ingress and egress to a public street or alley.

Local Utilities: Lines and facilities serving the immediate neighborhood, not pass through lines or facilities. (12-21-82, Ord. No. 11)

Lot: A parcel of land having access to and frontage on a public street occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area yard, parking area, and other open space provisions of this Ordinance.

Lot, Corner: A lot abutting two (2) or more streets at their intersection provided that the corner of such intersection shall have an angle of 135 degrees or less, measured on the lot side.

Lot, Front: The side of a lot bordering the principal street, unless otherwise specified on a plat, except that those lots bordering a lake or river shall have the side bordered by the water deemed the front.

Lot, Interior: A lot which is not a corner lot.

Lot Lines and Area: The peripheral boundaries of a parcel of land and the total area lying within such boundaries.

Lot Width: The width of a parcel of land measured at the rear of the specified street yard or setback line.

Major Recreational Equipment: Large items normally used for recreational purposes, including but not limited to travel trailers, motor homes, all-terrain vehicles, snowmobiles, boats and motors, buses and vans converted for sleeping purposes.

Mobile Home: Any structure originally designed to be capable of transportation by a motor vehicle upon a public highway, which does not require substantial on-site fabrication, and is intended for human occupancy.

Mobile Home Park: An area or premises on which is located two or more mobile homes.

7

- e. Chemical and allied products.
- f. Petroleum refinery and related industries.
- g. Concrete products.
- h. Primary metal industries.
- 1. Ordinance works.
- j. Generation of electrical power.
- k. Manufacturing and distribution of gas.
- 1. Dumps or landfills.
- m. Salvage yards; junkyards.
- n. Storage or processing of industrial wastes.

Minimum Lot Area. Sewered - 8,000 square feet except Shoreland Area, which shall be 10,000 square feet. Unsewered - Appendix A, plus any additional requirements of H62.20.

Minimum Width. Eighty (80) feet.

Minimum Depth. Sewered - 80 feet. Unsewered - 150 feet.

Minimum Yards. Front - Section II.07(d)2. Rear - 40 feet if adjacent to an R Zone, 10 feet otherwise; Side - 40 feet if adjacent to an R Zone, 10 feet otherwise.

Maximum Building Height. Three (3) stories or thirty-five (35) feet.

5. AGRICULTURAL A-1 (title - 2-14-84, Ord. No. 83-20)

Purpose. The long range goal for agricultural land use within Jefferson County is to preserve the most valuable of all resources, that of fertile land for agricultural pursuits, and to protect the land best suited for farming from premature urbanization. The agricultural district regulations are

therefore designed to regulate the use of land and structures within the areas of the county where soil and topographic conditions are best adapted to agricultural pursuits. Lands classified as Classes I and II by the U.S. Department of Agriculture Soil Conservation Service shall be considered to be prime agricultural lands.

Lands with Class III soils, as identified by the U.S. Department of Agriculture Soil Conservation Service, will in some cases contain prime agricultural capabilities. When other data substantiate potential crop yields of Class III soils to be comparable to expected yields of Classes I and II soils, the areas shall be considered prime agricultural lands.

Principal Uses. Agriculture, horticulture, dairying, beekeeping, livestock raising, hatching of fowl, nursery, greenhouse, stable, truck farm, *forestry. Roadside stand for the sale of products grown or produced on the premises. One single-family residence, occupants of which earn a substantial part of their livelihood from the farm occupation. Second dwelling if used by farm help whose livelihood is derived in substantial part from the farm operation. Feedlot for 150 livestock units or less. Poultry farm housing 10,000 birds or less. (*9-8-81, Res. No. 81-87)

A land division of up to three (3) acres with an existing residence and associated accessory structures is permitted if the residence in question was

21

constructed prior to enactment of the 1975 Zoning Ordinance and the parcel remaining contains a minimum of 35 contiguous acres. All provisions of the Agricultural A-3 District are applicable to the parcel to be created, as are the requirements of the Jefferson County Land Division and Subdivision Ordinance. (NOTE: Divisions of this nature are exempt from payback provisions of the Wisconsin Farmland Preservation Program, described in Wisconsin Statutes Chapter 91.) (4-21-87, Ord. 87-03.)

Accessory Uses. Essential services. Home occupations and professional home office. (4-16-85, Ord. No. 85-4.)

2IA

Conditional Uses. Additional residential units for farm help who earn a substantial portion of their livelihood from the farm operation. Commercial raising of fish. Feedlot for more than 150 livestock units. Poultry farm housing more than 10,000 birds (Sec. 11.05(d)). Fur farm. Public and semi-public uses (Sec. 11.05(b)) except those uses listed in Sec. 11.05(b)l. Private agri-related airstrips.

Duplex residential structures to be occupied by persons who earn a substantial portion of their livelihood from the farm operation; home occupations-conditional; uses identified as Conditional Uses in the A-2 District. As a condition of approving a conditional use for Agri-Business uses, the Committee must find that the proposed use has a necessity to be at the proposed location in light of alternative locations available for such uses and that it will not conflict with agricultural

uses in the vicinity. Recreational and waste management uses must be governmental owned to be allowed by Conditional Use in the district. An Agri-Business use proposed to be established on a farm parcel as an accessory or subordinate use to the dominant farm use can occupy only existing buildings and can involve only stock-in-trade produced for sale on the premises and can involve only employees who reside on the premises. (12-21-82, Ord. No. 11.)

Waste storage, treatment or disposal includes:

- (1) Sites or facilities where solid wastes or hazardous wastes are stored, treated or subject to disposal as defined in Ch. 144, Wisconsin Statutes;
- (2) Auto junk yards.
- (3) Waste recycling facilities, commercial or governmental.

Existing waste storage, treatment or disposal operations shall be required to apply for and be issued conditional use permits within one year of the date of this Ordinance. The permit shall describe and authorize the existing level and type of operation only. Permits to describe and authorize existing operations shall be issued administratively without public hearing. Expansions or alterations will require new permits.

It shall be a condition of approving a conditional use permit for a new or expansion or alteration activity that the operation is accepting wastes generated predominantly in the County or from agricultural-agri-business areas of adjoining counties.

Standards for deciding applications for conditional use permits for waste storage, treatment or disposal uses:

- (1) Whether a waste facility or usage is an appropriate land use, considering land use plans, site factors, neighboring uses and environmental considerations; and
- (2) Safety and security, in relation to dangers of fire, explosion, leakage, hazards through unauthorized entry onto the site, etc.; and
- (3) Pollution of land, air, water, noise, dust, vibration, blowing of refuse, smell, etc.; and

22

- (4) Damage or excess wear and tear to roads, bridges, etc.; and
- (5) Traffic hazards; and
- (6) Economic injuries; present or potential; through precluding reasonable uses of nearby lands; and re-use plans/potentials after the waste facility ceases operations.

The County must be satisfied that the operation will not unreasonably burden private or public interests because of the above factors.

Minimum Lot Area. (Resolution No. 80-126 adopted 2-10-81, effective 3-10-81) Thirty-five (35) acres.

Exception: Parcels of less than thirty-five (35) acres which existed prior to January 15, 1975, shall comply with Section 11.09(e), Substandard Lots. (Resolution No. 80-126 adopted 2-10-81, effective 3-10-81)

Exception: Parcels of less than thirty-five (35) acres which are the result of a Zoning District amendment to the official Zoning Map of Jefferson County, shall comply with Section 11.09(e), Substandard Lots. (Resolution No. 80-126 adopted 2-10-81, effective 3-10-81)

Minimum Width. Two hundred (200) feet.

Minimum Depth. Two hundred (200) feet.

Minimum Yards. Front - Section 11.07(d)(2). Rear - 75 feet. Side - (9-9-81, Res. No. 81-87) 20 feet each, providing that agricultural structures do not exceed in height twice their distance from the nearest lot line.

Maximum Building Height. Three (3) stories or thirty-five (35) feet.

6. AGRICULTURAL A-2 (title - 2-14-84). Agriculturally Related Manufacturing, Warehousing and Marketing District.

Purpose. The purpose of this district is to provide for the proper location and regulation of manufacturing, storage warehousing and related marketing or industrial activities that are related to the agricultural industry.

Uses listed for the A-2 District involve fixed locations, year-round or seasonal. A listed use that is mobile, moving from farm to farm, is not regulated. A site may have a Conditional Use without a primary use being established. (Ord. No. 11, 12-21-82.)

Principal Uses. Residences. (12-21-82, Ord. No. 11)

Accessory Uses. (12-21-82, Ord. No. 11)

- a. Residential (R-2) uses for Residence in this district.
- b. Local utilities.

Conditional Uses. (12-21-82, Ord. No. 11)

- a. Contract sorting, grading and packaging services for fruits and vegetables.
- b. Grist mill services.
- c. Horticultural services.
- d. Poultry hatchery services.
- e. Canning of vegetables, fruits and specialty foods.
- f. Production of cheese.
- g. Production of condensed and evaporated milk.
- h. Wet milling of corn (custom).
- 1. Preparation of feeds for animals and/or fowl. Conditional use approval is required if the operation occurs on a non-farm parcel or if it is conducted on a commercial/custom basis for export to farms other than the one on which it is located.
- j. Production of flour and other grain mill products.
- k. Blending and preparing of flour.
 - 1. Fluid milk processing.
- m. Production of frozen fruits, vegetables, other specialties.
- n. Meat packing.
- 0. Poultry, fish and small game dressing and packing, providing that all operations are conducted within an enclosed building.
- p. Livestock sales facilities.
- g. Grain elevators and bulk storage of feed grains.
- r. Fertilizer production, sales, storage, mixing and blending.
- 5. Sale of farm implements and related equipment.
- t. Grain drying where capacity exceeds 200,000 bushels per year.
- u. Trap and skeet shoot, rifle range, motocross course, race track and festival grounds, and clubhouse for such operation.
- v. Waste storage, treatment and/or disposal.
- w. Kennel, veterinarian facility, animal hospital.
- x. Mineral extraction and processing.
- y. Storage of non-farm equipment.
- z. Non-local utilities.
- aa. Campgrounds.
- bb. Golf courses.
- cc. Public and semi-public uses.
- dd. Home occupations. (4-16-85, Ord. No. 85-4.)
- ee. Fur farm.

Minimum Lot Area. Minimum sufficient areas for the principal structures and accessory buildings. Yard size will be determined as part of the issuance of the conditional use permit.

7. AGRICULTURAL A-3 (title - 2-14-84, Ord. No. 83-20)

Purpose. The purpose of the A-3 Rural Residential District is to allow a limited number of residential dwellings within the agricultural district. A-3 districts will be allowed only within those areas which are not classified as tillable prime agricultural lands. Class I and II soils, as identified by the

24

U.S. Department of Agriculture Soil Conservation Service, shall be considered to be prime agricultural lands. Class III soils with prime agricultural capabilities may be considered prime agricultural lands by the Planning and Zoning Committee. A-3 Districts will be allowed only within those areas where the soil is classified as being suitable for on-site septic system operation. Residents of this district recognize the area is primarily agriculturally oriented and accept those environmental conditions associated with farming.

Principal Uses. (12-21-82, Ord. No. 11)

- a. Single family dwelling
- b. Mobile homes on foundations.
- C. Group home in single family dwellings, 8 or fewer occupants.

Accessory Uses. (12-21-82, Ord. No. 11)

- a. Garage, residential.
- b. On-site parking and storage.
- C. Residential accessory uses.
- d. Home occupations and professional home office, accessory. (4-16-85, Ord. No. 85-4.)
- e. Home child care.
- f. Household pets.
- g. Raising/keeping of farm animals provided that parcel is 2.5 acres or larger and number of animals will not exceed one animal unit per 1.25 acre.
- h. Growing of field crops.
 - 1. Roadside stands.
- j. Local utilities.

Conditional Uses. (12-21-82, Ord. No. 11)

- a. Duplex.
- b. Non-local utilities.
- C. Kennels.
- d. Home occupations, conditional.
- e. Public and semi-public uses.

Minimum Lot Area. One (1) acre, but less than 35 acres. Note: A maximum of three (3) lots will be considered. (Amended 4-16-85, Ord. No. 85-4.)

Minimum Width. One hundred fifty (150) feet. Minimum Depth. Two hundred (200) feet.

Minimum Yards. Front - Section 11.07(d)2. Rear - 20 feet. Side - 20 feet each. (Am. 4-21-87, Ord. 87-03.)

Maximum Lot Coverage By Buildings. Maximum lot coverage by principal and accessory structures not to exceed thirty (30) percent of existing lot area. (4-16-85, Ord. No. 85-4.)

25

(h) Camping. Camping is prohibited in all areas except in campgrounds, and parks where camping is permitted.

(I) Minimum Building Area. All dwelling units shall contain the following area:

| | Bedrooms | Square Feet Floor Area |
|----------------------|----------|---------------------------|
| Single Family | 2 | 850 |
| Dwellings | 3 | 930 |
| | 4 | 1100 |
| Two-Family and | 1 | 500 |
| Multi-Family | 2 | 650 |
| Dwellings (per unit) | 3 | 800 |

(j) Public Utility. Public utility gas and oil pipelines, transmission and distribution lines, poles and other accessories shall be permitted in all districts provided that when a utility proposes a major inter-city transmission line or pipeline, it shall give notice to the Committee of such intention and of the time and place of hearing before the Public Service Commission. At the request of the Committee the utility shall meet with it to discuss the routing of said transmission line or pipeline and before actual construction shall file a mapped description of the route of such transmission line with the Committee.

11.05 CONDITIONAL USES

(a) Procedure.

1. Application and Hearing. Any conditional uses listed in this Ordinance shall be permitted only when authorized by the Committee. Application for a conditional use permit

shall be made to the zoning Administrator who shall refer it to the Committee. The Committee shall then schedule a public hearing on the application, publish a Class 2 Notice according to Chapter 985, Wisconsin Statutes, and notify by certified mail the clerks of any towns within 1000 feet of the proposed use, at least ten (10) days prior to the hearing date.

2. Review and Approval. The committee shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems, and the proposed operation.
3. Any structure within five hundred (500) feet of the existing or proposed rights of way of freeways, expressways, and within one-half (½) mile of their existing or proposed interchange or turning lane rights of way shall be jurisdiction over the trafficway. The Committee shall request such and await the highway agency's recommendation for a period not to exceed twenty (20) days before taking final action.
4. Conditions, such as landscaping, architectural design, type of constructions, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operation control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or parking requirements, may be required by the committee upon its

31

finding that these are necessary to fulfill the purpose and intent of this Ordinance.

5. Compliance with all other provisions of this Ordinance, such as lot width and area, yards, height, parking, loading traffic, highway access, and performance standards, shall be required of all conditional uses.

6. Violation. Any permitted conditional use which does not continue in conformity with the conditions of the permit shall be considered in violation of this Ordinance.

(b) Public and Semi-public Uses. The following public and semi-public uses shall be conditional uses and may be permitted as specified:

1. Airports, airstrips, landing field, and helicopter landing areas, providing that these facilities meet the regulations contained in Chapter 114 of the Wisconsin Statutes.
2. Governmental and cultural uses, such as administrative offices, fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds, and museums.
3. Utilities and communication towers with associated buildings, but not including studios.
4. Public passenger transportation terminals such as heliports, bus and rail depots, provided

that all principal structures and uses are not less than one hundred (100) feet from any residential lot line.

5. Public, private and parochial preschool, elementary and secondary schools, and churches, provided the lot area is not less than one acre and all principal structures and uses are not less than fifty (50) feet from any lot line.

6. Institutions. Colleges, universities, hospitals, sanatoria, religious, charitable, penal, and correctional institutions; cemeteries and crematoria; provided that all principal structures and uses are not less than fifty (50) feet from any lot line.

(c) Mineral Extraction and Processing. Mineral extraction and processing operations are conditional uses, and include mining, quarrying, borrow pits, crushing, washing, or other removal or processing of mineral resources, the erection of buildings and the installation of necessary machinery used in said extraction or processing, and the preparation of hot blacktop mix and ready-mixed concrete.

1. No such operation shall commence, no such operation shall be expanded onto land under separate ownership on the effective date of this Ordinance, and no operation which has been abandoned for a period of twelve (12) months or longer shall be renewed, except in compliance with the provisions of this section and after a conditional use permit has been obtained.

2. Application for the conditional use permit shall include an adequate description of the proposed operation; a list of equipment, machinery, and structures to be used; the source, quantity, and disposition of any water which

32

will be used; a topographic map of the site showing existing contours with minimum vertical contour intervals of two (2) feet, trees and other ground cover, proposed and existing roads, and all buildings and property owners' names within five hundred (500) feet of the site boundaries; the depth of all existing and proposed excavations; and a restoration plan.

3. The restoration plan shall contain adequate provision that all final slopes within the site do not exceed a thirty five (35) percent slope in a pit operation, or in a safe angle of repose in a quarrying operation. All final slopes shall be covered with topsoil, with seeding and erosion control practices as indicated in the Jefferson County Soil and Water Conservation District Technical Manual. After completion of the operation, the area shall be cleared of all debris and left in a sanitary condition. The plan shall indicate the proposed future use of the site.

The applicant shall furnish the sureties which will enable the County to perform the planned restoration of the site in the event of default by the applicant. The amount of such sureties shall be based upon reasonable cost estimates, and the form and type of such sureties shall be approved by the County's legal counsel.

4. The conditional use permit shall be in effect for a specified period of time, but not less than one (1) year nor more than ten (10) years. It may be renewed upon application, at which time additional conditions or modifications may be imposed.

5. The Committee shall consider the effect of the proposed operation upon existing streets, neighboring development, proposed land use, drainage, water supply, soil erosion, natural beauty, character, and land value of the locality, and shall also consider the practicality of the proposed restoration plan for the site.

6. Excavating and other operations and activities producing noise, smoke, or dust shall not take place within three hundred (300) feet of a residence, or within five hundred (500) feet of a school or institution.

7. No excavation shall take place within fifty (50) feet of a lot line.

8. Screening in accordance with 11.07 shall be required.

(d) Feedlots and Poultry Operations. Applications for feedlots and poultry operations which are conditional uses shall be evaluated by the Committee for compliance with the following objectives:

1. Location. The proposed operation should not conflict with existing land uses or planned future uses of the residences. The site should not be ecologically sensitive.

2. Water Contamination. The necessary structures or facilities should be provided to prevent wastes from entering surface and subsurface waters.

3. Waste Disposal. The necessary means should be available to adequately dispose of or to recycle a volume of wastes greater than that which is anticipated from the operation.

33

4. Additions in the street yard of existing structures shall not project beyond the average of the existing street yards on the abutting lots or parcels.

Screening Regulations. Any use required by this Ordinance to be screened in accordance with this section shall be contained within an opaque fence or wall eight (8) feet high, or a visual screen consisting of evergreen, or evergreen-type hedges or shrubs, spaced at intervals of not more than six (6) feet, located and maintained in good condition within fifteen (15) feet of the property line, or in any way out of view of the public.

(d) Highway Setback Requirements.

1. Classification. For the purposes of this Ordinance, the highway classifications as set forth in the Jefferson County Jurisdictional Highway Planning Study (see Appendix B) are divided into functional classifications as follows:

| FUNCTIONAL CLASSIFICATION | HIGHWAY CLASSIFICATION |
|---------------------------|---|
| Class A | Principal and primary arterial highways |
| Class B | Standard arterial highways |
| Class C | Minor arterial, high and low areawide arterials, and all state trunk highways not in Class A or Class B |
| Class D | Local highways, town roads, and all county trunk highways not in Class A, B, or C |
| Class E | Town roads located within subdivisions |

2. Setbacks. Except as otherwise provided, all structures shall conform to the following minimum setbacks. The more restrictive distance shall apply.

| FUNCTIONAL CLASSIFICATION | SETBACK FROM RIGHT OF WAY | SETBACK FROM CENTERLINE |
|---------------------------|---------------------------|-------------------------|
| Class A | 100 | 200 |
| Class B | 70 | 140 |
| Class C | 50 | 110 |
| Class D | 50 | 85 |
| Class E | 30 | 63 |

3. Where more restrictive setbacks are established by state law or by administrative rules, such laws or rules shall apply.

40

2. Total lifetime structural repairs or alterations shall not exceed fifty (50) percent of the County's fair market value of the structure at the time of its becoming a nonconforming use unless it is permanently changed to conform to the use provisions of this ordinance. (Amended 11-13-84, Ord. No. 84-15.)

3. Substitution of new equipment may be permitted by the Board of Adjustment if such equipment will reduce the incompatibility of the nonconforming use with the neighboring uses.

(b) Abolishment or Replacement. If such nonconforming use is discontinued or terminated for a period of twelve (12) months, any future use of the structure, land, or water shall conform to the provisions of this Ordinance. When a non-conforming use or structure is damaged by fire,

explosion, flood, the public enemy, or other calamity, or is dismantled for the purpose of reconstruction to the extent that restoration to its original dimensions and function would exceed fifty (50) percent of its current fair market value, it shall not be restored except to comply with all applicable provisions of this Ordinance and Ordinances No. 12 and 14. (Amended 4-16-85, Ord. No. 85-4.)

A current file of all nonconforming uses shall be maintained by the Zoning Administrator listing the following: Owner's name and address; use of the structure, land or water; and assessed value at the time of its becoming a non-conforming use.

Existing Nonconforming Structures. The lawful nonconforming structure existing at the time of the adoption or amendment of this Ordinance may be continued although its size or location does not conform with the lot width, lot area, yard, height, parking and loading, and access provisions of this Ordinance; however, it shall not be extended, enlarged, reconstructed, moved, or structurally altered in excess of fifty (50) percent of its current fair market value. Any alteration, addition, or repair to any nonconforming structure within the floodplain shall be protected by flood proofing measures pursuant to Section 11.1O(f)l.b. (Amended 4-16-85, Ord. No. 85-4.)

(d) **Changes and Substitutions.** Once a nonconforming use or structure has been changed to conform, it shall not revert back to a nonconforming use or structure. Once the Zoning Board of Adjustment has permitted the substitution of a more restrictive non-conforming use for an existing nonconforming use, the substituted use shall lose its status as a legal nonconforming use and become subject to all the conditions required by the Zoning Board of Adjustment.

(e) **Substandard Lots.** In any Agricultural, Residential, Waterfront or Community District, a one-family detached dwelling and its accessory structures may be erected on any legal lot or parcel of record in the County Register of Deeds Office before the effective date of amendment of this ordinance. Such lot or parcel shall be in separate ownership from abutting lands. Lands showing a common boundary, not separated by a river or road, are considered to be abutting lands. Parcels sharing a common corner are not considered to be abutting lands. (Amended 12-21-82, Ord. No. 11.)

If abutting lands and the substandard lot are owned by the same owner, the substandard lot shall not be sold or used without full compliance with the provisions of this Ordinance. If, in any Residential, Waterfront or Community District, the substandard parcel does not abut other lands under the same ownership, all the district requirements shall be complied with insofar as

47

practicable, but shall not be less than the following, and shall meet all requirements of the County's Private Sewage System Ordinance:

1. Lot Width - Minimum forty (40) feet (served by public sewer).

Minimum fifty (50) feet (served by private sewer).

Lot Area - Minimum 5,000 square feet (served by public sewer).

Minimum 10,000 square feet (served by private sewer).

2. Yards-Street - Minimum twenty-five (25) feet from lot line; the second street yard on corner lots shall be not less than ten (10) feet from the lot line.

Rear: Minimum fifteen (15) feet from lot line.

Side: Minimum five (5) feet from lot line.

Shore: Minimum seventy-five (75) feet.

Accessory Structures: A minimum yard for detached accessory structures is three (3) feet if located in rear yard area of principal structure.

Any permitted structures erected, or uses established, in the Agricultural District on a substandard lot in separate ownership from abutting lands which existed prior to the effective date of this Ordinance, or which are subsequently permitted by the granting of a lot size or setback variance by the Zoning Board of Adjustment, must comply with all use and yard requirements of the Agricultural A-3 Rural Residential District unless the lot is less than 20,000 square feet; hence, the yard requirements as specified for substandard lots in any Residential, Community or Waterfront District shall apply.

(f) Continuance of Use. (8-14-79, Resolution No. 85) Lawful nonconforming structures existing at the time of the adoption or amendment of this Ordinance may continue to operate at the level of operation on the effective date of passage, subject to the following:

a. The building housing the nonconforming use may be expanded 30 percent of the gross cubage in the building, excluding attic space. This expansion is permitted only once, but such expansion may take place by a series of expansions. Before permit for expansion is issued, the owner must provide a signed, dated copy of the plat plan of land ownership and plan of existing building use showing interior arrangement as it existed before any expansion is made.

One new structure may be constructed on the premise if all yard requirements of the district can be met. This structure cannot increase the gross cubage of the buildings by more than 40 percent.

48

CONDITIONS

CONDITIONAL USE PERMIT CU3I-81

HOWARD C. SMITH

PARCEL 07-14-30-43-001, TOWN OF AZTALAN

1. MANURE MANAGEMENT AND ENVIRONMENTAL MONITORING PLAN

A. Plan; Sources for Standards

Permit holder shall institute and implement a manure management plan such that application for manure to various soil types shall conform to defined specific standards and/or recommendations for "waste utilization" which emphasize the application of agricultural wastes on land in an environmentally acceptable manner while maintaining or improving soil and plant resources.

Standards and/or recommendations shall be those established by one of the following:

- (1) USDA - SCS
- (2) An approved soil testing laboratory
- (3) A certified soil consultant approved by the Jefferson County Zoning Department.

Permit holder shall institute and implement an environmental monitoring program, as specified by the zoning committee, for permit holder's property and all acreage used for manure application to provide early warning of increasing pollution hazards. Such monitoring shall include monitoring crop yields, plow-layer soils and subsoils for nutrient levels, coliform and nitrate levels in wells, and nutrient levels in surface waters, if required under Sec. 1 B(6).

B. Submission of Plan

The manure management plan shall be submitted to the Zoning Dept. annually on or before March 1 for the following year and shall include:

- (1) A map showing location and acreage of each field on which manure is proposed.
- (2) A soil test report for each soil type on which manure is proposed to be spread. Location of each soil sample submitted for testing to comply with this subsection shall be shown by use of an appropriate key on the map referred to in B(1) above. The map shall also show approximate extent and locations of the different soil types on which manure is proposed to be spread. These soils maps need only to be submitted once for a particular parcel of land.
- (3) An analysis of manure to be spread. The analysis shall be based on samples taken from the manure containment facility in such way as to be representative of manure to be applied. The analysis shall consist of, at minimum, tests for nitrogen, potassium and organic matter.
- (4) Description of type of machinery and methods of application proposed to be used in applying manure. If top spreading and disc incorporation is proposed, permittee shall show that sufficient machinery and manpower are available to incorporate manure within twelve (12) hours of application.

CONDITIONS

CONDITIONAL USE PERMIT CU31-.81

(5) A field-by-field and soil type-by-soil type listing of the following:

- (a) Type of crops to be raised on lands on which manure is proposed to be applied.
- (b) Expected yield goals for each type of crop. For each field and each soils type. Yield goals shall be established by one of the agencies/individuals referred to in Sec. 1A, based upon an exceptionally high level of crop management, or other management level named by the zoning committee.
- (c) Recommended fertilizer application rate for each type of crop for each field and each soil type.
- (d) Rates at which manure is proposed to be applied to each field and to each soil type. Rates shall be expressed in both tons of manure per acre and pounds of nitrogen per acre.

(6) An environmental monitoring program, not an immediate requirement but subject to future implementation if set by zoning committee, shall include, at a minimum:

(a) Soil Testing.

(i) Permit holder shall test soil for nitrate levels, and any other test required by zoning committee, annually at locations indicated in environmental impact report presented by permit holder and/or at any such other times and locations required by the Zoning Dept.

(ii) Permit holder shall perform tests as stated above for other property on which manure is applied.

(b) Water testing.

(i) Permit holder shall perform water tests, testing for any pollutants, elements, materials, etc., required by zoning committee four (4) times per year on existing wells and surface testing sites as set forth in environmental impact report presented by permit holder and/or at any such other times and locations required by Zoning Dept.

(ii) Permit holder shall perform tests as stated above for other property on which manure is applied.

(iii) Zoning Dept. may perform its own surface and subsurface water tests on permit holder's property at such times as it deems appropriate and necessary.

CONDITIONS

CONDITIONAL USE PERMIT CU3I-81

(c) Copies of all soil and water test results shall be forwarded to the Zoning Dept. upon receipt of test results from the testing agency at least once per year. Any water test which shows a 50 percent or greater increase in nitrate concentration from the previous test, or a concentration greater than 10 milligrams per liter (mg/l) nitrate shall be reported to the Zoning Dept. immediately upon receipt.

(d) Permit holder shall conduct and report any other soil and water test results required by zoning committee.

(7) If lands not owned by the permittee are to be used for manure application, the permittee shall submit written agreements indicating that the permittee has legal authority to enter, spread manure and conduct soil and environmental tests on such lands.

C. Plan Approval

The zoning committee shall review the proposed plan submitted by the permittee to determine if it complies with the applicable provisions of the permit. The zoning committee shall, within 14 days of submission of the plan, notify the permittee in writing of either its approval of the plan or its objection to the plan. If the zoning committee objects to the plan it shall detail the elements of the plan objected to and the reasons for objection. The zoning committee shall work with the permittee to cure the objectionable parts of the plans when objections are made. Permittee shall not commence implementation of a proposed plan until such plan has been completely approved by zoning committee.

D. Reporting Requirements and Record-Keeping

(a) Permittee shall, at all times after plan approval, keep and maintain an up-to-date manure application log containing the following:

(I) Field to which manure is applied.

(ii) Number of loads of manure applied.

(iii) Size of loads applied in weight or gallons.

(iv) Date and time of application of manure.

(v) Rates of application expressed in tons or gallons per acre and in pounds of nitrogen per acre.

(vi) Date and time of incorporation of manure.

(vii) Amount of manure stockpiled and location thereof.

If it is necessary for permittee to calibrate machinery used to apply and incorporate manure and/or fertilizer in order to determine application rate, permittee shall record measurements taken during calibration procedure so the Zoning Dept. can verify results. Further, permittee shall give Zoning Dept. at least 48 hours notice of date, time and place of calibration so Zoning Dept. may observe calibration and independently confirm results. Nothing herein requires Zoning Dept. to observe calibration or

-4 -

CONDITIONS

CONDITIONAL USE PERMIT CU31-.81

The manure log shall be available for inspection to Zoning Dept. personnel upon request without notice.

Nothing herein requires permittee to keep records or logs concerning application of fertilizer other than manure on fields where no manure is applied, though such records or logs are desirable and recommended.

(b) Permittee shall keep a crop log containing the following information for each field and each soil type on which manure or a combination of manure and fertilizer is applied:

(1) Type of crop planted.

(2) Date planted.

(3) Date crop is harvested.

(4) Crop yield.

Nothing herein requires permittee to keep crop log for fields on which no manure is applied.

2. Reporting Requirements

Annually, on or before March 1 of each year next following a year in which permittee has implemented an approved manure use and environmental monitoring plan, if required, permittee shall submit a report to the Zoning Dept. containing at least these items:

(a) Manure log and calibration date, if any.

(b) Crop log.

(c) Composite table containing a listing on a field-by-field and soil type-by-soil type basis of the following:

(i) Date of manure application

(ii) Rate of application.

(iii) Type of crop planted.

(iv) Projected crop yield.

(v) Actual crop yield

(d) The results of the environmental monitoring program in easily understood format.

II MANURE APPLICATION - GENERAL REQUIREMENTS

The following general requirements shall apply to permittee's application of manure.

A. Location and amount of manure shall be applied in accordance with the manure management plan, but in no event shall manure be applied so as to create odor or health nuisances for neighboring property owners.

-6-

CONDITIONS

CONDITIONAL USE PERMIT CU31-81

IV GENERAL REQUIREMENTS

A. Permittee shall take all necessary steps to keep manure produced by layers as dry as possible, unless a liquified manure storage and handling system is to be utilized.

B. Permittee shall take all reasonable means necessary to prevent or minimize the generation and impact of odors from the poultry confinement facilities.

C. Permittee shall take any necessary steps reasonably required by the Zoning Dept. to control rodents, flies and other pests.

D. Permittee shall maintain an area one (1) rod in width in grass along all open drainage ditches. Manure shall not be applied in such areas.

E. If at any time the amount of land available to permittee for manure application pursuant to these conditions is inadequate to recycle a volume of manure greater than that produced, permittee shall be required to establish to the zoning committee's satisfaction that permittee has

implemented an alternative, safe, adequate means of manure disposal. If permittee fails to do so, permittee shall immediately scale back the number of chickens at the site to that number which can safely be supported by the available land.

F. The conditions of this conditional use permit shall be enforced by the Zoning Administrator pursuant to the Jefferson County Zoning Ordinances. The Zoning Administrator and/or his agent shall have access upon reasonable notice to all property of the permittee subject to or used in connection with this conditional use permit, to the manure log, and to the soil and water samples and analyses thereof collected and analyzed pursuant to the provisions herein above set forth.

ADOPTED THIS FOURTH DAY OF AUGUST, 1981 BY THE JEFFERSON COUNTY
PLANNING AND ZONING COMMITTEE

Vernon Schultz, Chairman

Earle J. H. Moyse, Secretary

-5-

CONDITIONS

CONDITIONAL USE PERMIT CU31-81

B. Application on unfrozen ground

(1) Manure shall be incorporated into soil on same day as applied unless:

(a) Used for top dressing of a crop

(b) Used in conjunction with a zoning committee-approved no-till or minimum tillage program where and when it is shown to the satisfaction of zoning committee that odor, flies and runoff will not present undue problems for neighboring property owners.

(2) Notwithstanding the foregoing, all manure applied within 100 yards of any residence shall be incorporated into the soil on the same day as applied..

C. Application on frozen ground

No application on frozen ground shall be permitted unless permittee first obtains written approval of Zoning Dept. Zoning Dept. shall issue such approval only when one of the following conditions is present:

(1) Circumstances beyond the control of permittee have caused the effective holding capacity of the manure containment facility to be exceeded.

(2) There is a substantial likelihood of damage to the manure containment facility, or to the health and welfare of permittee's flock or to the health and welfare of permittee's employees or the community in general, if permittee is not allowed to remove accumulated manure.

When application on frozen ground is permitted it shall be on the following conditions:

(a) Manure shall not be applied closer than 150 feet to any waterway or water impoundment.

(b) Manure shall not be applied to slopes greater than six (6) percent where drainage is toward a surface waterway or water impoundment.

(c) Whenever and wherever odor and runoff are a problem, all manure spread on frozen ground shall be incorporated into soil as soon as conditions reasonably permit.

(d) Only so much manure shall be removed so as to alleviate condition which necessitated the approval of application on frozen ground.

III ALTERNATIVE MANURE DISPOSAL; NEW TECHNOLOGY

A. Manure disposal alternatives may be utilized if detailed plans are reviewed and approved by the Jefferson County Planning and Zoning Committee.

B. New technological advances may be implemented after a review and approval is made by the Jefferson County Planning and Zoning Committee.